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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,215	12/11/2003	Joshua J. Chesser	334-1028	1803
2574	7590	03/04/2005	EXAMINER	
JENNER & BLOCK, LLP ONE IBM PLAZA CHICAGO, IL 60611			ESTREMSKY, GARY WAYNE	
			ART UNIT	PAPER NUMBER

3676

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,215

Applicant(s)

CHESSER ET AL.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/13/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 4 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. 1, 3-6, and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable U.S. Pat. No. 3,736,016 to Garvey in view of U.S. Pat. No. 5,222,776 to Georgopoulos.

Garvey '016 teaches Applicant's claim limitations for a "housing" - including 44,50,52 as shown in Fig 2. Parts 44,50 are welded to the truck trailer via its door 20 and brackets 62,64. Claims in a pending application should be given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974).

Alternatively, parts including 36,20,44,48,52 read on "housing" where clearly, part 38,41 of Garvey '016 is "secured" thereto and accordingly one of ordinary skill in the art would recognize that it would have been obvious to secure a cable seal such as that disclosed by Georgopoulos '776. But in considering the "housing" of the prior art as either including or not including parts 20,36, it is the examiner's position that limitation of "secured to" is broad and does not specify any particular structure for securement and, additionally can reasonably be construed to include intermediate elements for

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securement (such as 20,36) so long as a functional securement is effected between the elements claimed to be 'secured' together.

Garvey '016 discloses a padlock 40 but doesn't teach limitations for a "cable lock assembly". However, Georgopoulos '776 teaches that cable lock assemblies having : a "cable lock body" - including 12, a "cable" - 14, and "mechanism" - including 82,84,86 are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a cable lock assembly such as the one taught by Georgopoulos with the housing of Garvey '016 in order to detect tampering without requiring operators of the device to have a key or combination for example as well known in the art. One of ordinary skill in the art would have more than a reasonable expectation of success since it is well known in the art to use cable lock assemblies or other tamper-indication seals as an alternative to padlocks and the proposed modification would not otherwise affect function of the device of Garvey '016.

As regards claim 3, although the housing of Garvey '016 is disclosed to be welded to the door's brackets 62,64, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an adhesive instead of welds in order to make installation faster and less expensive where it is well known in the art that modern adhesives can be used to permanently attach metals as an alternative to welding and the proposed modification would not otherwise affect function of the device whereby a cost-savings could be realized. Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to use adhesive to attach the brackets 62,64 to the door instead of the bolts, where bolts and adhesive are well known

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equivalents for the purpose of attaching and the modification would not otherwise affect function of the device. Similarly, a time and cost savings could be realized.

As regards claim 4, parts 62 or 64 read on limitation of "at least one leg" and could be considered as comprising a part of the housing 46.

As regards claim 6, the trailer and the opening covered by the door (20) read on a "first member defining an access opening", the door 20 reads on a "second member adapted to cover said access opening". Parts 34,36, define a "hasp", part 46 reads on "housing". The cable lock is "secured to said housing (46)" via its securement to part 36, 36 to 20, and 20 to 46. The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. As above, Georgopoulos '776 teaches a cable lock assembly as set forth in the claim where it would have been obvious to one of ordinary skill in the art at the time of the invention to use the cable lock assembly of Georgopoulos '776 with the housing and door assembly of Garvey '016 to provide security to the contents of the trailer by providing indication of tampering as well known in the art.

As regards claim 12, although the reference does not explicitly teach "adhesive", it would have been an obvious design choice or engineering equivalent at the time of the invention to use an adhesive for attachment since adhesive, screws, and welding

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are well known art-accepted equivalents, the choice of either generally being determined only by cost and/or toughness characteristics where examiner takes Official Notice that high-strength adhesives are well known in the art. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

3. Claims 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been fully considered but they are not entirely persuasive. It is the broadest reasonable interpretation of the claims that must be considered during examination. While the amendments to the claims have changed the scope and resulted in an indication of allowable subject matter for some claims, it has been held that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974). It is the examiner's position that structure defining the "relationship" among claim elements has not patentably distinguished from the prior art.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
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